IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4015 OF 2007
ALONGWITH
CRIMINAL APPLICATION NOS. 4016, 4017 & 4018 of 2007

Anil Somdatta Nagpal .... Applicant

versus

M/s. Kotak Mahindra Bank Ltd. & anr....Respondents

Shri Amin Solkar for the applicant.
Mr.V. Mannadiar i/b. Mannadiar & Co. for Respondent no.1.
Mr.Y.S.Shinde APP for State.

CORAM; A.P. DESHPANDE, J.
DATED; 13TH DECEMBER, 2007

P.C.;

1. The limited greivance that is pressed in service in this application is that the applicant has been denied a reasonable opportunity to cross examine P.w.2 Rajeev Tripathi, witness for the complainant. An application was moved under section 311 of Cr.P.C. by the applicant/accused for recalling of P.ws. 1 and 2. Said application has been rejected and against the rejection, the present application is filed and pressed in service.

2. Both the learned advocates, appearing for the applicant so also the respondent Bank, are in

agreement that with a view to advance cause of justice, P.w.2 could be recalled for cross examination by the present applicant. I am also of the view that if P.w.2 is not recalled for cross examination by the present applicant, there is possibility of failure of justice. Hence in the interest of justice, and having regard to the consession made available by both the learned counsel, the application is partly allowed. The order dated 11-10-2007 passed by the trial Court is quashed and set aside. The trial Court is directed to recall P.W. 2 Rajeev Tripati for cross examination by the accused/applicant, touching the merit of the matter and not the so called settlement. The learned counsel for the applicant assures this Court full co-operation with the trial court, so that the complaint can be dipsosed of as expeditiously as possible. I hope and trust that the trial Court shall proceed to decide the complaint preferably within a period of four months from today.

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